

Eads. Ultimately, he would be back in Washington to tell the same story again and again. He told it to Roy Stewart, to members of the Commissioner's staffs and to anyone else who would listen. What he received, at least in the office of Mr. Burtle, was an individual who had absolutely no interest in hearing the story, an individual scornful and adversarial to the situation who made no pretense of being concerned about Werlinger's predicament or how the situation might be remedied in a way which would preserve the Commission's rules and authority and at the same time, help a licensee carry on his work of service in the public interest. Mr. Burtle's response to the situation was not consistent with the actions of a fair regulator. At one point in the meeting, Mr. Burtle actually stated, and he is quoted directly, "this situation could cost me my job, so get your ass back to Bay City and find another site." Mr. Werlinger found a far more caring attitude in the offices of Messrs. Eads and Stewart, but each time the intervention of Mr. Burtle ultimately led to needless and unproductive confrontation and ultimately to the unwarranted question of license revocation and a waste of valuable Commission time and money in the process.

E. In a meeting with Mass Media Bureau Chief Roy Stewart in September, 1995 which would resolved the matter at the highest staff level, Mr. Stewart was in the process of reinstating the STA, stating, "let's get you operating legally and we'll deal with the rest of this later," when Mr. Burtle intervened. Burtle requested a private meeting between the two men and Werlinger was ushered out of Stewart's office. Ten minutes later, Stewart came out of his office and abruptly stated that he had changed his mind and could be of no assistance to Mr. Werlinger. Obviously, Mr. Burtle's sole

purpose was to prejudice Mr. Stewart against Mr. Werlinger thus preventing the reinstatement of the STA at that time.

F. Once faced with the alternative of defending himself or see the loss of the fruit of a life's work, Mr. Werlinger acted aggressively and quickly to take action which he felt would protect and continue the service he had established. Werlinger spent many days at 1919 M Street telling his story and asking for help and he was as concise and detailed in telling his story as the listener would allow. He had no reason to lie or deceive. Don Werlinger believed, believes, with every fiber in him that the actions taken by him in this case were right, that the service he was providing to the minority communities in the market which where previously unavailable, are not only needed but are at the heart of the mandate to licensees to serve the public interest.

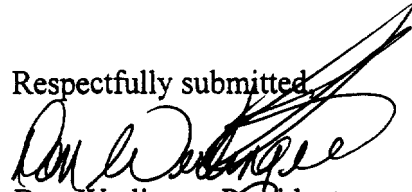
G. Finally, there is something very different and as yet unexplained in the way the Commission has handled the STA for KVCJ versus that of KFCC. Admittedly, in practically any other setting, the KVCJ situation would have little bearing on the KFCC case; however, there are simply too many parallels in the way the two STA requests were initially processed and too much inconsistency in the way the two cases were handled subsequent to the KFCC controversy not to look at them both here. There is clear evidence the Commission has dealt with the KVCJ situation in a dramatically different way than that of KFCC. Why? We can only conclude that the Commission's cancellation of the KVCJ STA in January, 1996 was an attempt to publicly validate their arbitrary treatment of Mr. Werlinger. In contrast, their reinstatement of the KVCJ STA in March, 1996 and its subsequent renewals through January, 1997 prove their

54. In retrospect, both the STA requests for KVCJ and KFCC might have been worded differently with more detail added regarding all the circumstances surrounding each request. But, how does one know what details should be added when the Commission's STA policies on approval and renewal are an ever moving target?

55. Few individuals can look back at a time of extreme crisis in their lives and not see where they might have handled the situation better. Such is abundantly true for Don Werlinger in this case, but if this case proves anything, it proves that well meaning actions taken by a licensee in the normal course of business can be taken out of context and distorted by a federal regulator bent on rationalizing subjective, arbitrary and capricious tactics, those distortions resulting in unexpected and devastating consequences for the unsuspecting licensee.

56. In light of all of the above and the evidence presented by Chameleon in this case, Chameleon's license to operate KFCC (AM), Bay City, Texas should not be revoked and its application to change the station's city of license to Missouri City, Texas should be immediately approved.

Respectfully submitted,



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